IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 376 OF 1990

The State of Maharashtra ..Appellant

versus

1. Prakash Dayanu Patil]
aged 22, R/o. Male,]
Taluka : Panhala,]
Dist : Kolhapur]
2. Smt. Rajakka Laxman Surve]
aged 29, R/o. Male]
Taluka : Panhala]..Respondents
Dist : Kolhapur](Ori. Accused)

Dr. F. R. Shaikh, APP for the Appellants - State.

Mr. N. J. Patil for the Respondents - Original Accused.

CORAM : D. G. DESHPANDE, &
S. R. SATHE, JJ.

DATE : 16TH JANUARY, 2007.

ORAL JUDGMENT : (As per D. G. Deshpande, J.)

1. Heard learned APP for the Appellant - State and the counsel for the Respondents - Original Accused.

2. This is an appeal by the State against the acquittal of the accused from offences under Section 498-A, 306, 304(B) read with 34 of Indian Penal

Code. Accused No.2 Rajakka is the sister of accused No.1. The complainant in this case is Bapu Mahadeo Nika, resident of Kolhapur. He had three daughters, one of them was Ujwala. Ujwala developed intimate love relations with accused No.1 and thereafter both of them married on 7.2.1988 and started residing at Village Male. Accused No.2 was married but she was residing with accused No.1 i.e. her brother. Ujwala's father later on learnt that Ujwala was harassed and ill-treated for the demand of dowry and also beaten and therefore according to the prosecution she committed suicide between 1st December, 1988 to 4th December, 1988 by jumping into the well, for which her father Bapu lodged a complaint at Kadoli police station. Body of Ujwala was taken out from the well, inquest panchnama was made, spot panchnama was made and the post mortem was conducted on the body. The viscera of deceased Ujwala was sent to Chemical Analyser and charge sheet came to be filed under Section 498-A read with 34, 306 read with 34 of IPC. Defence of the accused was of total denial. According to them Ujwala had gone to the well to fetch water, but accidentally fell in water and drowned herself but the father falsely implicated the accused.

3. The trial court acquitted the accused of all the offences because firstly there was no evidence that Ujwala committed suicide. Admittedly this was not a case of homicidal death. But according to the prosecution Ujwala was compelled to commit suicide because of the insistent demand of dowry. The trial court found that there is absolutely no evidence to show that it was a case of suicide. No doubt the death was unnatural but it could be accidental also and the prosecution evidence did not rule out the possibility of the accidental death. In view of these clear cut findings of the trial court, the very basis of the prosecution case goes away. Secondly the trial court found the story of the prosecution about ill-treatment to Ujwala by the accused unnatural, firstly, because Ujwala had married with accused No.1 against the wishes of her father. The father was having grudge against the accused No.1 from the beginning for this reason. In that view of the matter, it was found by the trial court that Ujwala would not have confined in her father about the so-called ill-treatment. Secondly, it was an admitted fact that Ujwala and accused No.1 had love marriage, then, in that background there is

no explanation from the prosecution how the demand of dowry cropped in and for what reason.

4. Regarding the narration of complaints of ill-treatment by Ujwala to her father or Shashikala - P.W. 2 sister of Ujwala, the court found that the evidence was not at all reliable. Marriage of Ujwala and accused No.1 took place on 7.2.1988 and she died between 1.12.1988 to 4.12.1988, therefore, within 10 months of the marriage she died. Then husband of Shashikala i.e. P. W. 6 - Sadanand was a Medical Practitioner and he admitted in the cross-examination that marriage of Ujwala and accused No.1 was opposed by the informant Sadanand and it was against the will of Sadanand. Therefore, the trial court held that the relations of informant Sadanand with accused were not good. Further, it was found that he had never visited Ujwala and he had no direct knowledge about the ill-treatment. He came to know about the so-called ill-treatment from his patients and from his wife Shashikala. This is all hearsay and it was rightly rejected by the trial court.

5. It will be therefore clear that the

prosecution failed to prove that Ujwala died as a result of suicide. The prosecution did not and could not rule out the possibility of accidental death and no inference of suicide could be drawn for want of consistent, cogent and reliable evidence about the so-called ill-treatment to Ujwala on account of dowry. The view taken by the trial court cannot be said to be perverse and therefore no interference is called for. In the result, we pass the following order:

ORDER

The Appeal is dismissed.

Judgment of the trial court is upheld.

The accused are on bail.

Their bail bonds shall stand cancelled.

(D.G. DESHPANDE, J.)

(S. R. SATHE, J.)